UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1997/51
21 February 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Item 10 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Situation in East Timor

Report of the Secretary-General

CONTENTS

	Paragraphs	Page
Introduction	1 - 4	2
I. Update on the good offices activities of the Secretary-General concerning the question of East Timor	5 - 8	2
II. Actions taken by the thematic rapporteurs and working groups of the Commission on Human Rights concerning East Timor	9 - 14	3

Annexes

I. Information provided by the Government of Indonesia

II. Information provided by the Government of Portugal

III. Material provided by non-governmental sources

GE.97-10616 (E)

Introduction

1. At its fifty-second session, the Chairman of the Commission on Human Rights made a statement on 23 April 1996, agreed by consensus, on the situation of human rights in East Timor (E/1996/23-E/CN.4/1996/177, para. 370). In that statement, the Commission, inter alia, welcomed the intention of the Government of Indonesia to continue to cooperate with the Commission on Human Rights and its mechanisms as well as its intention to invite a thematic rapporteur in 1997. It encouraged the Secretary-General to continue his good offices in order to achieve a just, comprehensive and internationally acceptable solution to the question of East Timor, and requested the Secretary-General to keep it informed on the situation of human rights in East Timor, which it would consider at its fifty-third session.

2. The present report has been prepared in response to the request contained in the above-mentioned statement.

3. Section I of the report contains an update on the good offices activities of the Secretary-General concerning the question of East Timor; section II contains a summarized description of action taken by various thematic special rapporteurs and working groups of the Commission. Annex I of the report contains information provided by the Government of Indonesia; annex II contains information provided by the Government of Portugal; annex III contains a summary of reports and other pertinent material provided by non-governmental sources.

4. The attention of the Commission on Human Rights is also drawn to the progress report of the Secretary-General on the question of East Timor (A/51/361) of 16 September 1996 in which he refers to the talks held between the Governments of Indonesia and Portugal in the framework of his continuing good offices.

I. UPDATE ON THE GOOD OFFICES ACTIVITIES OF THE SECRETARY-GENERAL CONCERNING THE QUESTION OF EAST TIMOR

5. In the past year, the Secretary-General has continued his good offices aimed at finding a just, comprehensive and internationally acceptable solution to the question of East Timor. He held an eighth round of discussions with Foreign Ministers Ali Alatas of Indonesia and Jaime Gama of Portugal in Geneva on 27 June 1996. This had been preceded by preparatory meetings in New York between the Permanent Representatives of the two Governments, led by the Secretary-General's Special Adviser, Mr. Ismat Kittani, which were also continued in Geneva in the days preceding the ministerial meeting.

6. The Foreign Ministers discussed in greater detail the substantive issues related to an eventual framework for a solution to the question of East Timor. At the conclusion of the meeting, the Foreign Ministers and the Secretary-General agreed that the discussions should continue at the level of the Permanent Representatives in New York through his Special Adviser and to hold a ninth round of talks on 21 December 1996 in New York. While the

contacts with the two sides continued in subsequent months, various matters not directly related to the issue obstructed the preparatory meetings required for the ministerial talks. Consequently, at the suggestion of the Secretary-General, the ninth round of ministerial talks was postponed to a later date.

7. The new Secretary-General, Mr. Kofi Annan, has been in touch with the two Governments and has expressed his desire to give a new impetus to his good offices. On 12 February, he announced the appointment of Mr. Jamsheed Marker (Pakistan) as his Personal Representative for East Timor. The Secretary-General will remain personally engaged in the efforts to find a solution to the problem while the Personal Representative will represent him in all aspects of his good offices function, including the talks between the two Governments and the consultations that the Secretary-General conducts with a cross-section of East Timorese society. Mr. Marker has begun consultations with the two Governments and intends shortly to follow up the Secretary-General's desire to give new momentum to these efforts.

8. With the agreement of the two Governments, the Secretary-General facilitated a second meeting of the All-inclusive Intra-East Timorese Dialogue (AIETD) from 19 to 22 March 1996 at Burg Schlaining, Austria. The meeting, which was held under the same terms of reference as the first one, held in June 1995, adopted the "Burg Schlaining Declaration - 1996", in which the participants, inter alia, expressed their desire to continue the Dialogue and reaffirmed "the need to implement the necessary measures in the field of human rights ... including the protection of women ...". The Foreign Ministers of Indonesia and Portugal considered the Declaration at their eighth round of talks in June 1996 and agreed to have further consultations on the proposals of the AIETD relating to the establishment of an East Timorese cultural centre in Dili and to the development of East Timor's human resources. They also "took note positively" of the Secretary-General's intention to facilitate another meeting of the AIETD, under the same terms of reference as the two first meetings.

II. ACTIONS TAKEN BY THEMATIC SPECIAL RAPPORTEURS AND WORKING GROUPS OF THE COMMISSION ON HUMAN RIGHTS CONCERNING EAST TIMOR

Special Rapporteur on the question of torture

9. Information regarding the action taken by the Special Rapporteur on torture with regard to East Timor is described in his report to the Commission (see E/CN.4/1997/7, paras. 91-111 and E/CN.4/1997/7/Add.1, paras. 209-241).

10. During 1996 the Special Rapporteur transmitted to the Government of Indonesia 12 cases of East Timorese reported to have been tortured and sent three urgent appeals on behalf of individuals or groups regarding whom fears were expressed that they might be subjected to torture. The Government replied to all these cases stating basically that the allegations or fears were unfounded.

11. The Special Rapporteur also included in his report information about his two-day visit to Lisbon, at the invitation by the Portuguese Government, in

order to meet a number of East Timorese residing in Portugal who had allegedly been tortured by Indonesian security forces prior to leaving their country. The Special Rapporteur indicated that he had decided to accept the invitation partly due to the fact that the Government of Indonesia had replied negatively (at least until spring 1997) to his request for a visit to Indonesia and East Timor, and therefore the visit to Portugal was an opportunity for him to obtain first-hand information that would help him to assess the situation regarding the use of torture against East Timorese. The report also included summaries of the general allegations received from non-governmental organizations, the oral accounts of torture he received from the alleged victims and the Government's replies to them, as well as its comments on the invitation by the Government of Portugal to the Special Rapporteur.

Working Group on Arbitrary Detention

12. The Working Group adopted decision No. 36/1996 regarding a number of East Timorese in detention. The text of the decision, which declares the detention of one person to be arbitrary, is included in the report of the Working Group (E/CN.4/1997/4/Add.1).

Working Group on Enforced or Involuntary Disappearances

13. Information regarding the action taken by the Working Group with regard to East Timor is included in its report to the Commission (E/CN.4/1997/34, paras. 190-195). According to the Working Group, between November 1995 and November 1996 it transmitted nine newly reported cases of disappearance to the Indonesian Government. Despite the government responses the cases remained unclarified. The Group also pointed out that it had in its files a total of 378 cases that had not yet been clarified.

Special Rapporteur on extrajudicial, summary or arbitrary executions

14. Information regarding the action taken by the Special Rapporteur with regard to East Timor is described in his report to the Commission (E/CN.4/1997/60/Add.1, paras. 231-247). The Special Rapporteur again indicated that he never received any reaction from the Government to the report he had prepared following his visit to East Timor in 1994.

Annex I

INFORMATION PROVIDED BY THE GOVERNMENT OF INDONESIA

1. On 22 July 1996 the Chargé d'affaires of the Permanent Mission of Indonesia to the United Nations addressed a letter to the Secretary-General that included information about human rights issues. The note was circulated to the General Assembly in document A/51/221. The following are some of the issues raised in it by the Government:

"(a) Portugal's accusation that Indonesia failed to honour the consensus statements made by the Chairman of the Commission on Human Rights since 1992 is wholly untrue. On the contrary, the Government of Indonesia has taken concrete steps to continue implementing the recommendations set forth in the consensus statements and that as far as the missing persons of the Dili incident are concerned, efforts to find them still being continued. The number of those unaccounted for is down to 54, after 2 more individuals reported their whereabouts. It is possible that some of those considered missing may be unwilling to come forward, have gone into hiding or even left Indonesia for Portugal;

"(b) Indonesia, as an active member of the Commission on Human Rights since 1991, is committed to working in close cooperation with all United Nations mechanisms. It is in this spirit that the Government of Indonesia extended an invitation to the United Nations High Commissioner for Human Rights, Mr. José Ayala-Lasso to visit Indonesia, including East Timor, from 2 to 7 December 1995. During that visit, the High Commissioner was granted free access to any place and to any one he desired to meet. It is important to note that at the end of his five-day visit, a Memorandum of Intention was signed by the Government of Indonesia and the United Nations High Commissioner for Human Rights which it was agreed would be followed by a Memorandum of Agreement. In this regard, the Memorandum seeks to enhance cooperation in the field of human rights between the Government of Indonesia, the Office of the High Commissioner and other United Nations mechanisms;

"(c) It is important to note that the branch office of the National Commission on Human Rights was inaugurated on 9 July 1996, in Dili, East Timor. This independent body will also serve as a source of reliable first-hand information to verify many false and uncorroborated allegations or incitements provoked by irresponsible elements;

"(d) (...) Allegations have been levelled that detention, torture and disappearances occurred from June 1995 until January 1996. This is certainly a convenient way of making allegations without substantiating them with proof or any concrete evidence. Far from any systematic strategy of silencing demonstrators, the local law enforcement have always upheld Indonesian criminal laws, while questioning, making arrests and detaining suspects. Therefore to state blatantly that some youths in East Timor were brought to trial and sentenced for engaging in lawful activities, is pure fabrication. In all such matters, after

investigation and finding no evidence of violation of criminal laws, those detained were released immediately and allowed to return to their families. As regards the 20 cases of torture referred by the Special Rapporteur on Torture of the Commission on Human Rights to the Government of Indonesia in 1995, these have been thoroughly investigated. Most of the names that were mentioned were either incomplete or matters were alleged to have taken place at times and places unknown to the Government of Indonesia. The results of the investigation have proved that none of the cases ever took place;

"(e) Portugal repeatedly argues that violations of human rights exist in East Timor by citing the 'reports' of Amnesty International. It is well known that the contents of such 'reports' are based upon preconceived notions and uncorroborated facts. It is for these reasons that the Government of Indonesia has never granted permission to organizations like Amnesty International, to visit the province as their predetermined views and negative approaches do not serve to advance the cause of the East Timorese people. The positive findings of other independent observers are as always conveniently ignored by Portugal;

"(f) In response to the contention that access is restricted to certain groups, this is a misrepresentation of the factual situation. The Government of Indonesia has continued to grant the International Committee of the Red Cross (ICRC) regular access to East Timorese prisoners, both in East Timor and in other places. During their visits, the ICRC delegates were also granted free access to people they wanted to meet in East Timor and other parts of Indonesia. The Government of Indonesia has noted with appreciation the continued assistance given by ICRC to improve further the living conditions of prisoners, including the sanitation in the prisons. The Government of Indonesia and ICRC also continued to work closely in clarifying inaccurate information regarding prisons;

"(g) East Timor continues to be visited by numerous foreign personalities, dignitaries and members of the diplomatic corps. Over the past six months, numerous personalities visited the province (...);

"(h) A series of incidents arose in the towns of Maliana, Uatolari and Dili in early September 1995. It is regrettable that the riots were caused by the irresponsible behaviour of a correctional officer of the Maliana prison which offended people of a different religion and so easily developed into a riot, with inter-religious and inter-ethnic nuance in several towns in East Timor. It is important to note that with the persuasive and wise handling of the incident by the local authorities, with the close cooperation of the local community leaders, including the Bishop of Dili, Mgr. Belo, the situation was quickly restored to normalcy. The Government has taken vigorous legal action against those found to be responsible for the incident. In this context, the above-mentioned warden is being brought to trial. However, it is regrettable that certain individuals will resort to anything to

create the impression that East Timor is not stable. By using religious and ethnic issues, they incite the local people to react in a negative manner. It is through these underhand methods that they attempt to focus the attention of the international community on East Timor."

2. In a note verbale dated 10 December 1996 the Permanent Mission of the Republic of Indonesia to the United Nations Office at Geneva transmitted a number of documents to the Secretary-General containing different statements about the 1996 Nobel Peace Prize. Excerpts from them are reproduced below.

"Statement by the East Timor House of Representatives dated 12 November 1996 addressed to the Nobel Peace Prize Selection Committee:

"We the members of the East Timor House of Representatives, on behalf of our constituents the people of East Timor, wish to express our grave disappointment that the prestigious Nobel Peace Prize has been used to reopen wounds that we have been trying to heal since our integration with Indonesia brought an end to a bloody civil war and a beginning to a process of development never witnessed during more than 450 years of Portuguese colonial rule.

"If we were convinced that your award was truly meant to honour a man of peace like Bishop Carlos Filipe Ximenes Belo and reward him for his commitment to the betterment of our society, our concern would be abated. Unfortunately, the sharing of this prize with Mr. Jose Ramos Horta, an individual who has been a party to the extermination of his political opponents, does a great disservice to all East Timorese who value the peace for which so many have been sacrificed."

"Letter of Abilio Jose Osorio Soares, the East Timor Governor, to the Chairman of the Nobel Peace Prize Committee

"First of all, I would like to express my thanks to the Nobel Peace Prize Committee that has paid much attention to the East Timorese. The attention of the Committee, however, has become problematic when the Committee announced Jose Ramos Horta as one of the Nobel Peace Prize winners along with Dili's Bishop Carlos Filipe Ximenes Belo. I realize that it is the Committee's jurisdiction to decide and determine who should receive the award. If the Committee sincerely wanted to send a message to Indonesia and us, the East Timorese people, to solve the problem in a peaceful way, that has not happened. The Committee's decision has reopened the problem that we felt we had left behind. (...)

"A controversial decision was made by the Committee when it decided Jose Ramos Horta was one of the Nobel Peace Prize winners, because he was a Fretilin spokesman ... In fact, in 1975 he was one of the Fretilin leaders who designed the civil war that caused many East Timorese people to lose their lives. (...)

"Meanwhile, on Bishop Belo I do not wish to comment because I do not know what criteria were used. I want to reiterate that the Bishop's Nobel should not be seen as either pro or anti integration but as part of his efforts to carry out peace. As an East Timorese with Indonesian nationality living among East Timorese people it is deserved."

"Statement and reactions by East Timor's leaders and figures:

"Dr. Arbilio Araujo, President of Fretilin and Leader of the People of East Timor Residing Abroad

"What has always been perceived by the international community that Horta represents Xanana Gusmao is far from the truth. The fact is that Ramos Horta has neither represented the objective nor the struggle of Xanana. If he truly represents Xanana's interest, why didn't they (the Nobel Committee) present the Peace Prize to Xanana himself?"

"F. X. Lopez Da Cruz, Indonesian Ambassador-At-Large with Special Tasks

"Bishop Belo is a prominent religious leader in East Timor, which places him in a position above all groups and classes. He does not take any sides. The teachings of Christianity, which are based on love, peace and harmony, continue to be the main principles of Bishop Belo. At the same time, he rejects any referendum for the people of East Timor, which he considers would bring back more bloodshed and civil war.

"The fact that the Prize was also given to Ramos Horta, in my opinion, will turn out to be very controversial. Horta is the mastermind of every single demonstration both in East Timor and abroad, which tends to use unnecessary force as well as sacrificing the future of East Timor's young generation. He only works for a minority group and does not possess strong roots with the people of East Timor. Furthermore, his parents are of Portuguese descent and his father was a district leader who oppressed the people of East Timor during the colonial era. It is only a mere coincidence that he was born in East Timor, however he holds a Portuguese passport."

"Clementino Dos Reis Amaral, member of the National Human Rights Commission

"The Nobel Committee's decision to award the Peace Prize to Jose Ramos Horta reflects its limited knowledge of East Timor. Ramos Horta has manipulated and ruined the younger generations of East Timor. Just imagine, the younger generations of East Timor have always been involved in every single demonstration which Horta has instigated and initiated. And what has he done following the arrests of those youths? So far, nothing."

"Press statement dated 22 October 1996 of the Department of Foreign Affairs of the Republic of Indonesia

"The Indonesian Government (...) has been astounded and surprised at the reason given for the award to Bishop Belo and to Ramos Horta. It has been announced that the award was for their 'sacrifices for the oppressed people of East Timor'. This is not true for in no way are the people of East Timor being oppressed. The Indonesian Government has always given the highest priority to the social and economic welfare of the people of East Timor. The record shows that it was only when East Timor integrated itself with Indonesia that the East Timorese began to enjoy universal suffrage, adequate political representation in decision-making centres of government, and real opportunities for socio-economic upliftment so that they could break away from the stagnation that had been the result of centuries of exploitation by the former colonial power. In fact, during the last meeting of the United Nations - facilitated All-Inclusive Intra-East Timorese Dialogue in Burg Schaining, Austria, on 22 March 1996, East Timorese representing all shades of opinion, including Jose Ramos Horta, stated that they were 'encouraged by the substantial role of the East Timorese in the administration and development of East Timor'."

3. The Permanent Mission of the Republic of Indonesia to the United Nations Office at Geneva sent four notes verbales dated 23 December 1996 to the Secretary-General providing the following information:

"A. East Timorese separatists killed four civilians in Manatuto, East Timor

"On 1 November 1996, East Timorese separatists injured one man and killed four others who were hunting in a forest in Manatuto, East Timor. Domingos de Jesus, the surviving man, told the villagers that the separatists attacked him and his friends with guns and machetes, took their food and left their victims in the forest. The law enforcement officers assisted by trackers and villagers attempted to track the separatists but their attempt was halted by bad weather. The four East Timorese who were shot dead and slashed with machetes by the separatists are Maumesak, Filomeno, Antonio Malai and Norberto.

"These types of brutal activities by FRETILIN have been effectively concealed from the international community by its founders, inter alia, Ramos Horta, and its supporters, notably Portugal. Furthermore, international organizations which concern themselves with human rights, such as Amnesty International, do not bother to comment on such killings, let alone condemn them, making their self-proclaimed intention of promoting and protecting human rights dubious.

"B. Visit of Brazilian parliamentarians to East Timor

"On 16 December 1996, a group of five Brazilian parliamentarians led by Senator Aracely de Paula visited East Timor province. Expedito Dias Ximenes, the spokesman of the provincial administration, stated that the members of the Brazilian Parliament were impressed with

the current positive situation in East Timor. One of the members stated to the press that he had been given an image of the situation in East Timor which is totally at variance with the reality.

"During the visit, they met with Mr. Abilio Soares, the Governor of East Timor, who briefed them in the Portuguese language about the East Timorese struggle since 1959 to achieve independence from Portugal which culminated in their genuine collective wishes to integrate with the Republic of Indonesia as clearly expressed in the Balibo Declaration of 1975. The explanation given by the Governor on the rapid and positive development that has been taking place in East Timor after its integration with Indonesia prompted the Brazilian parliamentarians to invite the Governor to visit Brazil so that he can present the true situation and full picture of East Timor to the people, the Parliament and the Government of Brazil.

"The Governor looked forward to having an open debate with Jose Ramos Horta during his visit to Brazil, thus allowing the people of Brazil as well as the international community to see for themselves the truth about East Timor and the fabrication that has been perpetrated by Horta.

"C. Number of East Timorese separatists decreasing

"The number of East Timorese separatists is decreasing with the arrest of three more members recently. Those arrested are Theofilo de Yesus, Manuel Amaral and Manuel. Theofilo, who happens to be the cook of Xanana Gusmao, was arrested following his attempts to ambush law enforcement officials. He was shot and his seven friends escaped and fled into the jungle. Manuel Amaral, a Dili resident who left for the jungle after his involvement in the violent demonstration of November 1991, was caught in Dili while he was trying to build a liaison.

"They testified that in the attempt to maintain their daily life, they often killed farmers or hunters to steal their belongings. They felt betrayed by the foreign elements who gave them empty promises to send munitions and unlimited funds. They also felt hesitant to surrender because of the misleading warning from their collaborators that they would be subject to torture and even murder once they surrendered.

"It is the consistent policy of the Government to maintain its general amnesty policy with the members of the separatist group. As has been demonstrated in the past, those who voluntarily surrendered were provided amnesty and also training so that they could become members of the civil society.

"Following their surrender, Mauhunu and Mauhudu were given amnesty and provided training and financial assistance. They are now living with their families in Dili and have become successful businessmen.

"D. Sixteen East Timorese patriots received medal of independence movement

"Sixteen East Timorese national independence fighters have received the Satyalancana Perintis Pergerakan Kemerdekaan or Medal of Independence Movement on 11 November 1996, for their struggle to fight against the Portuguese colonial power in 1959.

"Those 16 patriots are Domingos Soares, Jose Manuel Duarte, Evaristo da Costa, Armindo Amaral, Joaquim Pereira, Nicodemos dos Reis Amaral, Germano das Alves da Silva, Gerson Tom Pello, Jeremias Toan Pello, Alberto L. Ndun, the late Miquel Pinto, the late Mateus Sarmento Jordao de Araujo, the late Antonio da Costa Soares, the late Vital Ximenes, Jose Sarmento and Usman bin Mandully.

"History records that in 1959, the East Timorese people fought against Portuguese colonialism for their independence. Unfortunately, their independence movement was crushed and their 69 leaders were captured. One person was immediately executed and the rest were exiled to Mozambique and Angola. Meanwhile, 34 are still alive, living both inside and outside Indonesia.

"Following the fall of the dictatorship in Portugal, they have repeatedly appealed to the Portuguese Government to be returned to Indonesia but to no avail. Portugal has never made clear why it has repeatedly rejected their appeals. Their eventual return was facilitated by the ICRC. No news coverage or announcements about their return to Indonesia and their current well-being were ever made by and in Portugal.

4. The Permanent Mission also sent a note verbale on 6 January 1997 containing the following information:

"A. DECLARATION OF THE HEADS OF GOVERNMENT OF ASEAN ON THE QUESTION OF EAST TIMOR

"The Heads of Government of ASEAN at their meeting held in Jakarta, Indonesia, on 30 November 1996, issued a declaration relating to the question of East Timor, which reads as follows:

"'While recognizing the importance of ASEAN-EU relations which have developed over the past two decades, the ASEAN Heads of Government noted with increasing concern the efforts of one member country of the European Union to introduce extraneous issues such as the question of East Timor in the economic cooperation and interaction between ASEAN and the EU. They believed that the introduction of such extraneous issues would only lead to unwarranted aggravation in ASEAN-EU relations, while at the same time jeopardizing the tripartite process on East Timor presently taking place under the auspices of the United Nations Secretary-General. The Heads of Government reiterated their full support for the Indonesian position on East Timor and rejected the introduction of such extraneous issues into ASEAN-EU relations by a certain member of the EU'.

"B. FINAL COMMUNIQUE OF THE TWENTY-FOURTH SESSION OF THE ISLAMIC CONFERENCE OF FOREIGN MINISTERS

"The Islamic Conference of Foreign Ministers at its twenty-fourth session held in Jakarta on 13 December 1996, adopted the final communique relating to the question of East Timor, which reads as follows:

"'The Conference was briefed by Indonesia on the question of East Timor and the efforts to find a solution to the question. In this regard the Conference expressed its full support for Indonesia in the efforts to achieve a just, comprehensive and internationally acceptable solution'."

Annex II

INFORMATION PROVIDED BY THE PORTUGUESE GOVERNMENT

1. The Permanent Mission of Portugal to the United Nations Office at Geneva forwarded to the Secretary-General the following memorandum dated 7 February 1997 on the situation of human rights in East Timor:

"In East Timor, a wide range of human rights violations continued to take place during the last year, compounded by increasing incidents of political, religious and ethnic violence.

"The situation in the territory continues to be a cause of 'deep concern', as recognised by the Commission on Human Rights, of which Indonesia is a member, and thus subscriber to its Chairman's statement on East Timor, adopted by consensus on 19 April 1996.

"A. Human rights situation

"Throughout 1996, extrajudicial killings, disappearances, arbitrary detentions and torture were reported in East Timor by various reliable sources.

"1. Extrajudicial killings

"Politically related extrajudicial killings continue to occur in East Timor. The U.S. State Department's Report on Human Rights Practices for 1996 [states] that 'security forces in East Timor killed two unarmed civilians, in April, in separate unrelated incidents: on 25 April, near Baucau, an unarmed East Timorese civilian allegedly attempted to escape questioning by security personnel and was killed when one of them fired what was described as a warning shot. A military officer was convicted of accidentally killing the victim. On 28 April, in Dili, a member of the security forces fired on and killed an unarmed civilian during an altercation caused because the victim was allegedly burning an Indonesian flag. In early August, a student was killed after quarrelling with soldiers and seeking to escape arrest.'

"The first two killings are also mentioned in the Human Rights Watch World Report 1997, where victims are identified as Paulo dos Reis and André Sousa.

"According to Amnesty International, in its January 1997 report (AI Index: IOR 41/01/97), 'in September 1996, Jacinto de Jesus and Luis Ximenes were shot and killed by members of Kostrad (Army Strategic Reserve Command) as they were checked at a border crossing between Baucau and Viqueque, in East Timor'.

"2. Disappearances

"There were no new efforts by the Indonesian authorities to account for the missing and dead from the 12 November 1991 violent incident at the Santa Cruz cemetery in Dili. Of those still listed as missing in a report that the military had transmitted to Human Rights Watch/Asia, no additional cases were resolved during the year.

"The U.S. State Department reports that 'knowledgeable observers continued to believe that most of the missing are dead and that members of the armed forces know where their bodies are located'.

"The same source also reveals that 'a respectable human rights NGO reported to the United Nations the disappearance of a Timorese man from Same, on or around 13 May'.

"3. Torture and arbitrary arrests

"As stated by numerous sources, military units regularly detain East Timorese civilians for interrogation; often these civilians are mistreated for several days and then released.

"The U.S. State Department stresses that 'according to credible reports, in January, security forces seized nine East Timorese from their homes in the Zumlai 'Kecamatan' because they were suspected of cooperation with the guerrilla forces. One of the detainees alleged that they had been beaten and mistreated, including being placed in a small underground hole'. There were other reports that military and police units make frequent use of random torture against young men to maintain order in urban areas of East Timor.

"[As concerns] arbitrary detentions, the U.S. State Department reports that 'in areas where active guerrilla movements exist, such as East Timor..., there are instances of people being detained without warrants, charges or court proceedings.... Numerous individuals were seized from their homes in Dili and arbitrarily detained in February; there were similar reports of persons being arbitrarily detained in Baucau in June and November, and in Viqueque in December'.

"Senator Claiborne Pell, in the report that he presented to the Senate Foreign Relations Committee after his visit to Indonesia and East Timor in May 1996, also refers to the Baucau incident, where roughly 80 people were arrested after street protests against the desecration of a picture or statue of the Virgin Mary by Muslim Indonesians. The clashes reportedly caused the death of two people and wounding of an undetermined number of others (one of them was identified as Martinho Lopes). The situation in Baucau remained tense for several days while detentions and house-to-house searches were in progress throughout the city with people [going] missing or being submitted to harsh interrogation methods.

"4. Political prisoners

"Amnesty International counts at least 57 prisoners of conscience in East Timor, serving terms including life imprisonment for their peaceful opposition to Indonesian rule. These numbers include nine people convicted in relation to the Dili incident of 1991, and 21 sentenced during 1996, charged with using violence. Amnesty characterizes their trials as 'unfair', since the prisoners did not have access to legal representation nor to information about the schedule of the trials.

"The U.S. State Department reports that several hundred people are serving sentences for subversion in Indonesia, including many East Timorese, among which the East Timorese resistance leader Xanana Gusmão, imprisoned at Cipinang. During the eighth round of UN-sponsored talks, Indonesia refused to discuss both the proposal of the Portuguese Foreign Minister to visit Jakarta and to talk to Xanana Gusmão, and the proposal which the Portuguese Prime Minister put forward to President Suharto, during the ASEAN Summit meeting in Bangkok, according to which Portugal would agree to the opening of interest sections in Lisbon and Djakarta, provided that the Indonesian Government would agree to release Xanana Gusmão and other East Timorese political prisoners and ensure full respect for human rights in East Timor under UN supervision.

"In his speech at the Nobel Peace Prize award ceremony on 10 December and in an article published the same day by the New York Times, Bishop Belo declared 'after all these years of suffering, people in East Timor want to see real change. A modest first step would be the release of East Timorese political prisoners, a step that could renew hopes for peace and help the next round of United Nations-sponsored talks'.

"5. Excessive military presence

"Indonesia's military and security presence in East Timor, in spite of all promises and announcements, remains largely out of proportion with the alleged very low level of guerrilla warfare being waged against the Indonesian forces of occupation (the Indonesian military commander claims that the East Timorese guerrilla is comprised of only 188 fighters armed with 88 weapons). This increasing presence of the military force strongly contributed to the tension prevailing in the territory. In fact, many human rights violations seem also to be the result of unprofessional behaviour shown by troops in East Timor.

"According to U.S. State Department sources, 'the Indonesian Government continued to maintain an excessive military presence in East Timor'.

"As referred by Senator Pell in his report, there is a massive concentration of military personnel in East Timor, amounting to 15,403 troops. 'The vast majority of the troops are not East Timorese', says Senator Pell, who adds 'the presence of this armed and uniformed

non-Timorese force causes immense friction and conflict, leading the people of East Timor to feel that they are subjugated by a foreign army of occupation'.

"6. Infant mortality

"It is worth recalling, when referring to the situation prevailing in the territory as a whole, that the 1996 World Population Report released by the United Nations Population Fund shows that East Timor has the worst infant mortality rate among the world's 30 least developed countries and territories, at 135 deaths per 1,000 births. East Timor has also the lowest life expectancy among those same countries listed in the 1996 World Population Report (48.4 years for women and 46.7 for men).

"7. Massive Indonesian migration to East Timor

"Although in recent years Indonesia has significantly reduced its transmigration program, transmigrants and migrants outside the government program have received indirect government support in the form of developmental assistance and contracts with the Indonesian armed forces or local government officials stationed in East Timor. According to the U.S. State Department's Report on Human Rights Practices for 1996, 'in the last several years, informal predominantly Muslim migration to the province has sparked socio-economic tension in urban areas, proving an even greater concern than the formally sponsored transmigration program'.

"8. Asylum bids at western embassies

"Since January 1996, 69 youths sought political asylum in several western embassies in Djakarta. Asked by REUTERS to comment on the high number of East Timorese who have sought refuge in foreign embassies, Mr. Armindo Maia, acting rector of the Dili University said: 'The situation here in East Timor is one of terror, tension and persecution... I am not surprised these youngsters choose to go to foreign embassies, as people in their position are generally in a hopeless situation'.

"B. Indonesia's failure to comply with the recommendations made by the Commission on Human Rights and its mechanisms

"The Indonesian Government has continuously failed to act upon the recommendations made by the United Nations Commission on Human Rights. In 1996, the Commission noted with satisfaction the understanding reached between the Indonesian authorities and the High Commissioner for Human Rights concerning the upgrading of the current Memorandum of Intent on the technical cooperation in the field of human rights to a Memorandum of Understanding. In this context, it was also provisionally agreed to look into the possibility of the High Commissioner assigning a program officer within the office of the UNDP in Djakarta, who would also have regular access to East Timor. No further steps have since been taken by the Indonesian authorities to implement this provision.

"Amnesty International has produced a set of recommendations which should be met in order to achieve an effective human rights monitoring by the program officer, including 'full and unimpeded access to all areas of Indonesia and East Timor'.

"The 1996 consensus statement noted with satisfaction the greater access granted by the Indonesian authorities to international media and humanitarian organizations. While recognizing that some progress has been made in this matter, it is regarded as being clearly insufficient. In fact, access remains severely restricted and independent monitoring of the human rights situation is therefore extremely problematic. International media have been barred from the territory, with only a few exceptions since the beginning of 1996, including a permission for journalists to accompany a diplomatic delegation in April, to cover President Suharto's visit in October and to attend a press conference by Bishop Belo in November. Credible international human rights organizations such as Amnesty International or Human Rights Watch/Asia have still not been allowed access to the territory.

"During its fifty-second session, the Commission on Human Rights welcomed the intention of the Government of Indonesia to continue to cooperate with the Commission and its mechanisms. It should however be recalled that Indonesia did not accept the visit of a thematic rapporteur in 1996 and, contrary to the consensus statement adopted by the Commission on Human Rights in 1995, responded negatively to the requests for a visit made by the Special Rapporteur on torture and by the Working Group on Arbitrary Detention.

"The Government of Indonesia has also failed to implement the recommendations made by these thematic mechanisms - exception made to the establishment of a national commission on human rights (KOMNAS). This commission opened an office in Dili in June 1996. Although this was generally regarded as a positive development, many observers are doubtful of the office's effectiveness because of its location next to the local military headquarters. The U.S. State Department reports that, 'as of the year's end, the office had limited itself to dealing with non-political cases and therefore had made little impact with regard to the more serious human rights problems in East Timor'.

"According to the report of the High Commissioner for Human Rights on his visit to Indonesia and East Timor (3-7 December 1995), the Indonesian authorities are unwilling to accept the findings of the thematic mechanisms which they consider to be 'unbalanced and lacking in objectivity'.

"In his report to the last session of the Commission, the Special Rapporteur on extrajudicial, summary and arbitrary executions regretted that 'no reaction had been received from the Government with regard to the recommendations made upon his visit to Indonesia and East Timor in 1994'.

"As pointed out before, no action was taken in order to bring about an early release of East Timorese imprisoned for their opposition to Indonesian rule, sentenced after unfair trials.

"In the last years, East Timor has been the object of deliberations by the Commission on Human Rights. In 1993, the Commission adopted resolution 1993-97, which called upon the Indonesian Government to take specific steps in order to improve the human rights situation in East Timor. Since 1994, the Commission has adopted consensus statements recommending measures that would improve the situation prevailing in East Timor. Although it could be said that recommendations contained in these statements have been increasingly less demanding, Indonesia has systematically failed to honour its commitments in a way that undermines the credibility of the Commission on Human Rights itself."

2. In addition to the above, the Permanent Mission of Portugal to the United Nations Office at Geneva sent to the Secretary-General the following materials:

(a) A communiqué from the Ministry for Foreign Affairs on the occasion of the fifth anniversary of the Santa Cruz massacre stating that neither the circumstances surrounding the events nor the number and identity of the persons dead or disappeared have been clarified yet;

(b) A communiqué dated 11 October 1996 from the Ministry for Foreign Affairs expressing satisfaction at the award of the Nobel Peace Prize to Monsignor Ximenes Belo and Mr. José Ramos Horta;

(c) A resolution on the occupation of East Timor by Indonesia adopted by the Joint Assembly of the Asian, Caribbean and Pacific countries and the European Union on 26 September 1996 in which the ACP-EU Assembly, inter alia, condemned once again the Indonesian military repression of the people of East Timor, called for the immediate release of all political prisoners, including Mr. Xanana Gusmao, and reaffirmed its support for the action taken under the aegis of the United Nations to resolve the situation in respect of human rights and the right to self-determination;

(d) A resolution on the situation in East Timor and the violation of human rights in Indonesia adopted by the European Parliament on 20 June 1996 in which the Parliament, inter alia, deplored the provocative acts perpetrated against freedom of religion, called for the immediate release of all political prisoners, including Xanana Gusmao, and reaffirmed its support for the United Nations-sponsored negotiations under way aimed at resolving the problems on the basis of respect for human rights and the right to self-determination;

(e) The common position of 25 June 1996 defined by the Council of the European Union concerning East Timor in which the EU called upon the Indonesian Government to adopt effective measures leading to a significant improvement in the human rights situation in East Timor, in particular by implementing fully the relevant decisions adopted in that connection by the United Nations Commission on Human Rights, and supported all appropriate action with the objective of generally strengthening respect for human rights in East Timor and substantially improving the situation of its people by means of the resources available to the European Union and aid for action by non-governmental organizations.

Annex III

MATERIAL PROVIDED BY NON-GOVERNMENTAL SOURCES

1. In its World Report 1997 published in December 1996, Human Rights Watch referred to two separate incidents involving extrajudicial executions which allegedly occurred in East Timor in 1996. It also indicated that ethnic and religious violence had increased, some of it apparently deliberately provoked. Thus, in June, riots broke out in the town of Baucau after an Indonesian guard at a mosque in Baguia posted a picture of the Virgin Mary with a derogatory caption. The incident led to a protest march. Security forces were called in to contain the demonstration and, upon their arrival, violence broke out. Over 100 people were allegedly detained for their involvement in the demonstration. The report also referred to the opening, in July 1996, of an office of the National Human Rights Commission (KOMNAS) in Dili. It stated that its effectiveness was compromised by the fact that it was located directly across the street from the district military command and was headed by a former prosecutor from the island of Flores who did not speak the local language.

2. A non-governmental organization called East Timor Human Rights Centre based in Australia transmitted over the year alleged cases of disappearance, torture, arbitrary detention and extrajuducial executions, some of which were processed by the different thematic mechanisms of the Commission. They included information about 38 persons alleged to have been arbitrarily arrested between February and July 1996 three persons reportedly killed by soldiers or Special Forces Command in the district of Viqueque and the alleged disappearance of 10 persons in November 1996 following military operations also in the district of Viqueque.

3. The Secretary-General also received materials from the Commission for the Rights of the Maubere People and the National Council of Maubere Resistance, which included lists of persons allegedly detained, as well as the monthly bulletins called "Tapol-The Indonesian Human Rights Campaign". The Bishop's Conference of England and Wales sent a copy of a resolution adopted in November 1996 in which it welcomed the award of the Nobel Peace Prize to Bishop Belo and expressed concern about ongoing human rights violations and increasing interreligious tensions in East Timor, as well as about the lack of real progress in the tripartite talks and in the All-inclusive Intra-East Timorese Dialogue under United Nations auspices. They also urged, inter alia, that the United Nations press for the establishment of an effective United Nations human rights presence in East Timor.

4. In addition to numerous appeals on individual cases, Amnesty International issued in 1996 and at the beginning of 1997 several reports containing information about the human rights situation in East Timor, including the following:

(a) "East Timor: The September and October 1995 riots: Arbitrary detention and torture" (January 1996). This report referred to disturbances which allegedly took place resulting in damage to property and injuries sustained by rioters and police. At least 300 people were said to have been arbitrarily detained in the wave of arrests which followed the riots. Despite

the authorities' denial that any of those arrested were tortured or ill-treated, Amnesty International said that it had received reports and testimony indicating that members of the security forces did torture and beat the detainees;

(b) "1997 UN Commission on Human Rights - 50 years old" (January 1997). In that document, Amnesty International called on the Commission to act in particular country situations, including Indonesia and East Timor. It alleged that access to East Timor remained severely restricted, making independent monitoring of the human rights situation extremely problematic. International media had been barred from the territory, with only a few exceptions, since the beginning of 1996 and access continued to be denied to some human rights organizations, including Amnesty International. It was alleged that the Government had taken no further action to identify those killed during, or account for those missing after the Dili massacre of 1991. At least 57 prisoners of conscience, serving terms including life imprisonment for their peaceful opposition to Indonesian rule, and other political prisoners remained in prison in East Timor. Those sentenced during 1996 included 21 persons charged with using violence. All were believed to have been sentenced to prison terms ranging from eight months to four years and six months after unfair trials at which they did not have access to legal representation.

UNITED
NATIONS

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Economic and Social
Council

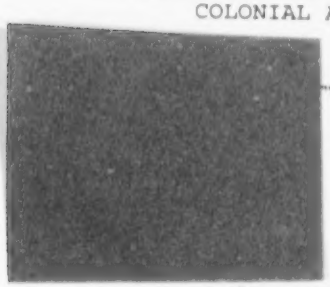
Distr.
GENERAL

E/CN.4/1997/51/Add.1
7 March 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Item 10 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES



Situation in East Timor

Report of the Secretary-General

Addendum

Information submitted by the Government of Indonesia

By letter dated 12 February 1997, the Government of Indonesia transmitted information about developments in East Timor and requested that it be included in the report of the Secretary-General. Due to its late arrival that information could not be included in the main report and is, therefore, reproduced below.

"Introduction

1. On 19 April 1996, the Chairman of the fifty-second session of the Commission on Human Rights read out a statement agreed upon by consensus on the situation of human rights in East Timor. It was the third time such a statement was adopted in three consecutive years. The Government of Indonesia, out of its strong commitment to fully cooperate with the main United Nations human rights machinery, is pleased to provide the Commission with information concerning initiatives and measures taken by the Government, as transpired from the statement.

Missing persons in the Dili incident of 12 November 1991

2. At the time that it was last reported to the United Nations Secretary-General the number of remaining missing persons totalled 54. As the Commission may recall, in its previous statement on the question, the Indonesian Government unequivocally stressed that 'one particular problem in this matter is that many of those who were involved in the violent demonstrations leading to the incident have not come forward or have left the country clandestinely'. In this connection, some new developments which occurred in the last two years have given us some clear clues on those who were thus far still missing:

(a) Among the East Timorese youths who forced their way into several embassies in Jakarta and were subsequently given government permission to leave the country for Portugal, scores of them have admitted that they were involved in the 1991 Dili incident.

(b) A number of East Timorese who succeeded in fleeing to Australia by boat in May 1995, clearly admitted to taking part in the 1991 Dili incident. They fled the province with a group of fishermen with whom they mingled following the tragic incident.

(c) Some other followers of the anti-integrationist elements who either surrendered or were caught alive by the security forces recently confirmed their involvement in the unfortunate incident. Evading arrest and persecution, they decided to join the armed insurgents in the jungles in the wake of the incident.

- Geronimo (32) and his two accomplices, Angelina (21) and Valente (16), surrendered to the authorities in June 1996 and were immediately returned to their respective families. Geronimo, who has a wife and two children, admitted that he fled to the jungle together with his friends at the time of the Dili incident on 12 November 1991.

- Manuel Amaral (27), together with his two friends, Theofilo de Yesus (36) and Manuel (27), were arrested by the security forces in December 1996 when their small armed unit tried to ambush the government military patrolling platoon. Manuel Amaral, who was shot in the leg in the ensuing skirmish, told the authorities that he fled to the jungle in 1992, feeling that his life was in danger from his involvement in the Dili incident. He thanked the Government for the humane treatment he received and for the chance accorded to him to continue his studies at the University of East Timor in Dili.

- It remains the policy of the Government to grant amnesty to members of the anti-integrationist group who surrendered to the authorities voluntarily, and to return them to their families.

(d) A number of insurgents who were killed in skirmishes with the security forces in 1996 were believed to be members of an anti-integration group which fled Dili as a result of their involvement in the 1991 Dili incident.

(e) A number of suspects who were arrested for their involvement in violent riots at the time when Bishop Belo arrived in Dili on 24 December 1996 from Europe to receive his 1996 Nobel Peace Prize were also suspected to be directly involved in the 1991 tragic Dili incident.

Those facts represent solid grounds to believe that almost all 54 people reported as unaccounted for were either fleeing to the jungles and joined the armed separatist group or mixed in with ordinary people. It now seems to have become futile for the Government of Indonesia to continue the search for the missing persons.

Closer cooperation with the ICRC

3. To date, cooperation between the Government of Indonesia and the ICRC has never been closer.

(a) The ICRC representatives were given full authority to perform their regular visits to all East Timorese under custody and to those serving their terms in jail, including the jailed Xanana Gusmao at Cipinang prison in Jakarta. The last visits of the ICRC representatives took place between 19 and 22 August 1996 and 25 November to 2 December 1996.

(b) The ICRC representatives were also granted free access to people they wanted to meet during their visits both in East Timor and in other parts of Indonesia.

(c) The continued assistance given by the ICRC to further improve the living conditions of the prisoners and the sanitation in several prisons is appreciated.

(d) Since 1979, the ICRC has been playing its part in the repatriation programme involving the reunification of East Timorese from the province with their relatives in Portugal and other countries, and those living abroad, especially in Portugal, with their relatives in East Timor.

(e) Beginning in 1994, the East Timor provincial government, the National Red Cross Society and the ICRC, as well as the armed forces, launched a joint humanitarian programme to assist the needy. Under the programme, 44 clean water supply facilities were developed in 6 regencies.

(f) The ICRC played a facilitating role in the departure and travel of more than 100 East Timorese youths to Portugal after their bid for political asylum was turned down by several embassies in Jakarta in the last two years.

(g) Although they were unsuccessful, the Government paid tribute to the ICRC's intermediary efforts to free 13 members of a scientific research expedition who were held hostage by a group of separatist terrorists in Irian Jaya in 1996.

(h) In a rare situation, the ICRC Office in Dili, East Timor, handed over a fugitive who sought refuge on the ICRC premises and was wanted by the police as one of the suspects in the brutal killing of an off-duty soldier during a welcoming ceremony for the Bishop of Dili, Monsignor Belo, 1996 Nobel Peace laureate, on 24 December 1996.

Access to East Timor

5. Believing that 'seeing is believing', the Government welcomes and encourages more and more visitors to visit the province. Yet, such openness has in several cases been abused by some visitors who land on the island with an a priori perception and produce biased and unbalanced reports.

The province is as a matter of policy open to foreign tourists. The facts have shown that freelance writers or journalists passing as tourists are pouring into East Timor to fish for spurious information which they then sell as a commodity to the international public. Human rights have become a thriving industry for them. Their presence on the island, if it becomes known to local hatred mongers and conflict entrepreneurs, will be exploited to the latters' advantage. Then a pattern of mutuality of interest becomes established between them. The foreign journalist posing as a tourist who is found to be breaking the national established code of journalistic work is subject to deportation. This, of course, discredits the genuine desire demonstrated by the host country and does a disservice to the people in the province who have long been yearning for peace and harmony.

Almost no single month throughout the year has passed without some programme of visits for foreign visitors as shown in the following list:

(i) Manuel Macedo, Chairman of the Portugal-Indonesia Friendship Association (PIFA), 5-7 April 1996.

(ii) Sra. Marinella Castagno, Head of the World Salesian Congregation Order 'Filhas de Maria Auxiliadora' (FMA), 24-30 April 1996.

(iii) Mr. Hans-Josef Thesen, Senior Officer of the Ministry for Economic Cooperation of Germany, 16-24 May 1996.

(iv) United States Senator Claiborne Pell (D-Rhode Island), 30 May - 1 June 1996.

(v) Mr. Leslie James, Deputy Director of the Southeast Asia Division, Foreign Ministry, Canada, 31 May - 5 June 1996.

(vi) H.E. Mr. Utula Utuoc Samana, Permanent Representative of Papua New Guinea to the United Nations in New York and Vice-Chairman of the United Nations Special Committee on Decolonization, in his personal capacity, 19-20 July 1996.

(vii) Mr. Brian Atwood, USAID Administrator, 28-29 June 1996.

(viii) A number of foreign journalists including Jeremy Wagstaff (Reuters), James Edward della Giacoma (AFP), Michel Bret Maher and David John Henry (ABC); Patrick John Reynell Walters (The Australian), Jose Sarni Ocampo (Reuters), Nobuo Fukuda (Asahi Shimbun), Philip W. Senon (New York Times), David Jenkins (Sidney Morning Herald), Ivan Lopes de Goody (Brazil), several Portuguese journalists, Adrian Bradsaw and Jurgen Kremb (Germany).

(ix) Alex Townsend, an officer of USAID, end of first week of July 1996.

(x) Two Portuguese scholars, first week of July 1996.

(xi) Dr. Abilio Araujo and Prof. Dr. Antonio Colaco, members of the Portuguese Academician Group, 6-8 August 1996.

(xii) Cardinal Edward Clancy, head of the Catholic Church in Australia, 9-18 August 1996.

(xiii) Mr. L. B. Labuschange, Senior Officer of the South African Ministry of Foreign Affairs, 15-17 August 1996.

(xiv) Mr. Grover Rees and Mr. Robert Hathaway, United States House of Representatives, International Relations Committee, 11-13 October 1996.

(xv) Ambassador Sally Shelton, USAID headquarters in Washington, 24-25 October 1996.

(xvi) Dr. Thomas Glaser, Deputy Director of the Federal Foreign Ministry of Germany, 25-27 November 1996.

(xvii) Prof. Dr. Luis Felipe Thomas, Portuguese historian, 14-18 December 1996.

(xviii) A Brazilian parliamentary delegation led by Deputy Aracely de Paula and Senator Antonio Carlos Valadares, Deputy Pedro Valadares, Deputy Feu and Mr. Wellington Franco de Oliveira as members, 16-17 December 1996.

(xix) Mrs. Judith Sefi Attah, Minister for Women's Role and Social Welfare of Nigeria, Chairman of the forty-sixth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, 17-18 December 1996.

(xx) Mr. Patrick Kennedy, United States Congressman (D-Rhode Island), 23-24 December 1996.

(xxi) Mr. Frank R. Wolf, United States Congressman (R-Virginia) with two members of his staff, Mr. Charles White and Mr. William Gray, 12-14 January 1997.

(xxii) Ambassadors and representatives of various embassies and international organizations accredited to Indonesia, throughout the year 1996.

(xxiii) Some foreign correspondents based in Jakarta, throughout the year 1996.

Cooperation with the United Nations human rights mechanisms

6. The Government of Indonesia is fully committed to cooperating with the United Nations human rights mechanisms. Therefore, it has always replied to communications concerning the allegations of human rights violations addressed to it, be they from the thematic special rapporteurs, working groups or other mechanisms, including urgent appeals under the 1503 procedure.

7. In the course of the visit of Mr. José Ayala Lasso, United Nations High Commissioner for Human Rights, to Indonesia, from 2-7 December 1995, several agreements in principle were reached between the Government of Indonesia and the High Commission, with a view to enhancing technical cooperation in the field of human rights. Both parties agreed, inter alia, to upgrade the current memorandum of intent so that it can become a more practical memorandum of understanding on technical cooperation in the field of human rights. In this context, it was also provisionally agreed to look into the possibility of the High Commissioner assigning a programme officer to the UNDP office in Jakarta in order to follow up the implementation of the technical cooperation agreement. Talks on the MOU are at present entering their final stage, particularly with regard to the modalities and terms of reference governing the appointment of the programme officer.

Recent developments in East Timor

Measures to improve fundamental human rights

8. The Indonesian Government firmly believes that sustainable development is the only viable means of promoting the fundamental rights of the people, namely the rights to adequate food, housing, jobs, health and education, of which they have been deprived for more than 400 years under the colonial rule.

(a) Thanks to the Government's vigorous development programmes, the East Timor province has booked an annual economic growth rate of 10 per cent - much higher than the average 6.8 per cent growth registered by the other 26 Indonesian provinces. In fact, the

province's per capita income has increased from US$ 34.20 in the mid-1970s to US$ 265.50 at present, i.e. eightfold.

(b) Houses, hospitals and schools now exist, in sharp and telling contrast to centuries of Portuguese neglect. Under the Portuguese yoke, East Timor had only 2 hospitals and 14 clinics. Today, there are 11 hospitals and 332 village health centres, and they continue to increase. In regard to the schools, there were only 47 elementary schools, 2 junior high schools and 1 senior high school when Portugal abandoned East Timor. Today, every East Timorese child attends school. There are 715 elementary schools, 114 junior high schools, 58 senior high schools and 4 centres of higher education, including the University of East Timor. With the cooperation of the United States Agency for International Development, 2 professors from Georgetown University are now teaching at the University of East Timor.

(c) The province has also dramatically improved its economic infrastructure since 1991 when the province received some US$ 199 million in government grants, almost one hundred times more than the average yearly development expenditure for East Timor during the final years of Portuguese rule.

(d) The business volume of 73 village cooperative units in the province in 1996 reached a value of Rp. 21,013,504,000 (US$ 8.9 million).

(e) On 16 October 1996, President Soeharto inaugurated several development projects worth US$ 45 million, covering paved roads, bridges and irrigation to further boost the economy of the province. Thousands of hectares of land are now arable through technical irrigation systems.

(f) As is the case in many provinces in Indonesia, unemployment among the East Timorese youth remains a problem which still needs to be addressed. In this regard, in the last five years, a total of 1,506 young East Timorese have been employed in the business sector in 10 other provinces in Indonesia, namely South, West, Central and East Kalimantan, Jambi, Riau, Lampung, South Sumatra, South Sulawesi and Maluku. They have been recruited through an interprovincial manpower distribution programme to take up jobs in those provinces. On 20 September 1996, the East Timor provincial administration sent off one thousand personnel to Central Java to follow an orientation course for new civil service recruitment. East Timor is the only Indonesian province where the Government has been inducting people into the civil service on such a large scale. A total of 75 East Timorese young people signed working contracts with 5 timber companies in Maluku on 16 January 1997, after completing a three-month occupational training course in Ambon. Domestic investment projects in East Timor which were approved by the Government in 1996 comprise 12 projects with a total investment value of Rp. 270,715 billion or about US$ 142 million. The industrial sector ranks first, followed by transportation, services, fishing, industrial and construction sectors. Meanwhile, foreign investment projects valued at Rp. 29,240 billion or about US$ 15 million will be operating in the services sector. These projects are expected

to help combat unemployment in the province. By Presidential Decree No. 65/1984, 285 former members of the Portuguese colonial military forces (Tropas), who later on fought for the integration with Indonesia, were granted the status of government civil servants after undergoing an administrative process. They are now serving with the Provincial Administration.

(g) Indonesia's constitutional commitment to freedom of worship for all religions throughout the province is fully upheld.

(a) The number of new churches in the province has risen to over 800, from 100 in 1974, and the percentage of Catholics rose from just over 27 per cent in 1972 to over 92 per cent by 1994. During his last visit to the province on 15 October 1996, President Soeharto inaugurated the giant statue of Christ the King, at Fatucama Hill, 7 km east of Dili. Bishop Belo blessed the statue on 24 November 1996. The blessing, attended by 25,000 people, was covered by dozens of local and foreign journalists. In his blessing, the Bishop called for no more demonstrations. The statue is the second highest statue of Christ in the world after the famed statue above Rio de Janeiro in Brazil. The 27 m-high statue symbolizes East Timor as the country's 27th province.

(b) To serve the interest of the increasing number of Catholics, Pope John Paul II ordained Basilio do Nascimento in the Vatican on 6 January 1997 as the new Bishop of Baucau, East Timor, which has a population of 200,000 Catholics. Bishop do Nascimento, who was born in East Timor, received his theological education in Portugal and France. Baucau Diocese will also oversee the regencies of Manatuto, Viqueque and Lautem.

(c) Imbued with the high spirit of religious tolerance, Bishop Belo attended a fast-breaking gathering during Ramadhan in Dili, on 2 February 1997, together with the Chairman of the East Timor Indonesian Ulemas Council, H. Abdullah Sagaan, and the Regional Military Commander, Major General H.A. Rivai.

9. By the same token, the Indonesian Government is also fully committed to the promotion of the individual rights of the East Timorese.

(a) The Government gives strong support to the activities of the Indonesian National Commission on Human Rights branch office in Dili in order to monitor the human rights situation, and enhance the promotion and protection of human rights of the people in the province. Offers from certain countries to give assistance to the Dili office so that it can function more efficiently and effectively deserve appreciation.

(b) In preparation for the May 1997 general elections to elect members of the national and local House of Representatives, 450,772 people in East Timor have been registered as eligible voters by the Voters Registration Committee. It will be the sixth national

general election in which the East Timorese participate since the majority of them expressed the wish to integrate with Indonesia in 1976. It is confirmed that the Bishop of Dili, Carlos Filipe Ximenes Belo, has been officially registered on the electoral roll of Bidau Lecidere, East Timor regency.

(c) On humanitarian considerations, the Government of Indonesia gave free passage to East Timorese youths who had tried to seek asylum at several embassies in Jakarta in the last two years, allowing them to leave the country for Portugal. Mention should be made of the fact that there were no valid grounds whatsoever to support their request for political asylum, as these youths were not being persecuted by any authorities of the Government of Indonesia. In fact, the Government does not even have any files on them. That their request for political asylum was groundless was emphasized by the reaction of the embassies into which they entered forcibly, all of which rejected the East Timorese youths' request.

(d) The Government supported the establishment of a fact-finding mission on Portuguese atrocities during the colonial rule by the National Commission on Human Rights and the Dili 'Trisula' Legal Aid Foundation in 1996. The team would also look into the plight of comfort women (Jugun Ianfu) during World War II. According to the team's initial report, there are at least 500 East Timorese comfort women now living in the sub-districts of Ambeno, Bobonaro and Liquisa.

(e) It is a well-known policy on the part of the Government to desist from using lethal weapons and excessive force in dealing with demonstrations and riots. The power to disperse and handle demonstrators and rioters is solely invested in the State police and no longer rests with the security forces.

- The year 1996 has been characterized by no fatalities and not a single shot was fired by the law enforcement officers when they were called in to control the demonstrations.

- In line with that policy, the Catholic Church entrusted the Catholic youths with the task of organizing and keeping the welcoming ceremony for the 1996 Peace Nobel Laureate, Bishop Belo, on 24 December 1996, in order. But regrettably a group of irresponsible youths started a violent riot which resulted in the tragic death of one off-duty soldier and in 11 bystanders being injured. Again, observing a high degree of self-restraint the police apparatus handled the case with great care not to be provoked by the culprits to react excessively.

- That kind of reaction was expected by the latter whose only intention is to create trouble, hatred and tensions among people and, ultimately, to besmirch the good name of the Government of Indonesia. The Bishop of Dili, Carlos Filipe Ximenes Belo, not only expressed deep regret but also condemned the brutal incident that killed Army Corporal

Alfredo Liga dos Santos, and sent his condolences to the bereaved family. Clementino dos Reis Amaral, a member of the National Human Rights Commission and a native of East Timor, said in Dili that the brutal killing of Corporal dos Santos was a glaring violation of human rights.

The military role in socio-economic development

10. The role of the armed forces in socio-economic development throughout the country should be understood proportionally and should not be underestimated. The armed forces emphasize that territorial operations or civic missions are a combination of efforts by the military, government agencies and the local population. These missions, covering all 27 provinces including East Timor, are conducted routinely to improve the overall conditions of the rural areas. In East Timor, as in all the other provinces, the objective of the military civic mission is first and foremost to combat poverty and underdevelopment as well as to serve and protect the people. In a unique situation, not found in other countries, members of the armed forces actively participate in joint family planning and health campaigns to promote the people's quality of life and public welfare through the National Polio Immunization Week. The scheme helps decrease the mortality rate and increase the life expectancy of the people. Development projects within the framework of the military civic mission are open to foreign visitors so that they can understand the missions and measures carried out by the armed forces."

UNITED
NATIONS

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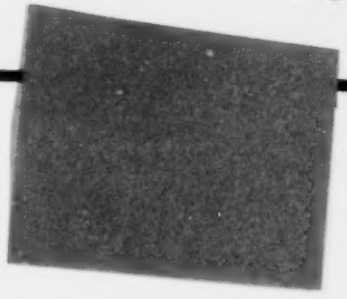
Economic and Social
Council

Distr.
GENERAL

E/CN.4/1997/52
17 March 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 10



QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report of the High Commissioner for Human Rights on the activities of the Human Rights Field Operation in Rwanda

CONTENTS

	Paragraphs	Page
Introduction	3 - 5	3
I. MOST SIGNIFICANT RECENT DEVELOPMENTS		
A. Overview	6 - 8	3
B. Main human rights issues surrounding the mass return movement	9 - 19	4
C. Response of the High Commissioner for Human Rights to the mass return movement	20 - 24	6
D. Start of the genocide trials	25 - 26	8

GE.97-11012 (E)

CONTENTS (continued)

		Paragraphs	Page
II.	RESTRUCTURING OF HRFOR IN RESPONSE TO THE DETERIORATION OF THE SECURITY SITUATION EARLY IN 1997		
	A. Attacks on expatriates including members of HRFOR	27 - 32	8
	B. Security measures in response to the deterioration of the security situation	33 - 35	9
	C. Visit of the High Commissioner to Rwanda	36 - 37	10
	D. Restructuring and adaptation of HRFOR	38 - 47	10
III.	ACTIVITIES OF HRFOR		
	A. Overview	48	13
	B. Administration of justice and institution-building	49 - 51	13
	C. Genocide response and vulnerable groups	52	14
	D. Human rights education and promotion	53	14
IV.	COSTS AND FINANCING OF THE OPERATION	54 - 56	15
V.	CONCLUSIONS	57 - 59	15

Introduction

1. The present report is submitted pursuant to Commission on Human Rights resolution 1996/76, in paragraph 19 of which the Commission requested the United Nations High Commissioner for Human Rights to report on the activities of the Human Rights Field Operation in Rwanda to the Commission on Human Rights at its fifty-third session.

2. In his most recent report to the General Assembly (A/51/478) of 10 October 1996 on the human rights situation in Rwanda, and the status and activities of the Human Rights Field Operation in Rwanda, the High Commissioner set out in some detail his response to the crisis in Rwanda, the Operation's mandate, as well as the methods and procedures it employs to fulfil its terms. The High Commissioner therefore considers it unnecessary to reiterate the substance of that report.

3. However, since the submission of the High Commissioner's report to the General Assembly, a number of important developments have taken place. In November and December 1996, a massive return movement of refugees occurred. Most of the returnees were persons who had fled to countries neighbouring Rwanda during, or shortly following, the genocide and civil war that ravaged Rwanda in 1994. The return movement took place in conditions of relative calm, and a low incidence of human rights violations was observed. Unfortunately, during January 1997, the number of killings in Rwanda escalated sharply and the general security situation inside the country deteriorated severely. In January and February 1997, a number of attacks were carried out against international observers, including the murder of five Human Rights Field Operation personnel on 4 February. These developments necessitated a restructuring and adaptation of the Operation.

4. The High Commissioner's Human Rights Field Operation in Rwanda (HRFOR), the largest United Nations presence in Rwanda, continues to carry out its human rights protection and promotion work, vital to the future of Rwanda, in cooperation with the Government of Rwanda. The Field Operation, launched in September 1994, has made considerable progress in a number of areas, while new challenges have become apparent.

5. The purpose of this report is to provide an update on the status of HRFOR and on the activities it has carried out under the auspices of the High Commissioner for Human Rights since the submission of the High Commissioner's report to the General Assembly, on 10 October 1996.

I. MOST SIGNIFICANT RECENT DEVELOPMENTS

A. Overview

6. Between 15 November and 31 December 1996, more than 1 million Rwandans returned to their country from camps in Zaire and Tanzania. From 15 to 31 November, an estimated 555,000 returnees arrived from former refugee camps in the North Kivu region in Zaire, at their communes of origin, primarily in Gisenyi, Ruhengeri, Byumba and Kigali Rural prefectures. A further estimated

12,000 returnees crossed the border into Rwanda from the North Kivu region in Zaire during the first half of December. Though massive in scale, the return was marked by relatively few incidents, and returnees were generally well received in their home communes.

7. Between 14 and 31 December, an estimated 473,000 Rwandan returnees arrived in Kibungo prefecture in south-eastern Rwanda from former refugee camps in Ngara and Karagwe in north-eastern Tanzania. In general, the mass return from Tanzania was characterized by a higher degree of tension than that experienced during the massive influx of returnees from Zaire.

8. The number of arrests increased significantly in January, compared with previous months. As of the end of January, approximately 99,300 persons were detained in central prisons and local detention centres visited by HRFOR, which represents an increase of more than 7,000 detainees during January and an increase of 30,000 since the beginning of 1996.

B. Main human rights issues surrounding the mass return movement

Increased attacks against genocide survivors

9. One of the main elements of the HRFOR mandate has been to assist the Government of Rwanda build confidence within the country in order to facilitate the return of refugees to their communes of origin - a precondition for lasting peace and stability in the Great Lakes region. Unfortunately, the mass return occurred in conditions that made registration of the returnees exceedingly difficult, if not impossible. A consequence of the lack of adequate screening at border crossing points was that persons who may have been directly responsible for acts of genocide and associated violations of human rights and humanitarian law, perpetrated during the 1994 civil war in Rwanda, entered the country mingled with the legitimate refugees. The influx of these criminal elements resulted first in a noticeable decrease in the stability of certain regions, followed eventually by attacks, including those perpetrated against survivors of the genocide and persons associated with them.

10. During the period from January to mid-February 1997, HRFOR learnt of eight separate incidents in the country in which an estimated 54 genocide survivors and persons associated with them were killed and a further 22 injured. This represents a significant increase in killings and other attacks against genocide survivors and their associates as compared to previous months. The increase in the number of these killings came amidst a deterioration of the general security situation in January. During January, HRFOR learnt of the killings of at least 424 persons in 55 separate incidents. This represents the highest number of reported killings since the beginning of 1996. A certain number of returnees have also been responsible for killings and other attacks, including against genocide survivors and persons associated with them. HRFOR received reports of 11 killings allegedly perpetrated by returnees against genocide survivors and their associates during November and December.

11. The Rwandan authorities initially arrested small numbers of returnees from Zaire and, in some cases, returnees were detained or turned themselves in

for their own protection. By December, HRFOR had received reports that a total of 162 newly-arrived returnees were in custody in local detention centres. At that time, the return to Rwanda of an estimated 4,331 members of the ex-FAR (former Rwandan Army soldiers) had been registered, and 12 had been arrested. By 15 December, arrests of new arrivals from Zaire had increased considerably, and at least 700 returnees, including 24 ex-FAR soldiers, were being detained, primarily in Gisenyi, Kigali Rural, and Ruhengeri prefectures. The overwhelming majority were arrested on charges of participation in the genocide.

12. Between 14 and 21 December, at least 378 newly-arrived returnees were arrested, including some 146 members of the ex-FAR and at least 8 former local civilian officials. As in the case of returnees from Zaire, a number of the detainees had turned themselves in out of fear for their personal safety. In other instances, members of the local population took returnees into custody and brought them to local detention centres on charges of participation in the genocide.

13. According to information received by HRFOR by 31 December, some 5,460 such returnees were being held in custody at local detention centres, particularly in Kibungo and Mutara prefectures, which had 2,243 and 676 detained returnees respectively. Local authorities in some communes in Kibungo have responded to the large number of arrests by releasing detainees accused of common law crimes.

Killings and other matters involving returnees

14. Between 15 and 30 November, HRFOR noted two fatal attacks against returnees from Zaire: the 18 November killing of a returnee in Ruhengeri by three soldiers of the Rwandan People's Army (RPA) and the fatal beating on 27 November in Gisenyi prefecture of a returnee accused of killing a genocide survivor.

15. In December, there were 15 reported killings of returnees: five in Kibungo, three in Kigali Ville, two in Kibuye and one each in Byumba, Cyangugu, Gikongoro, Gitarama and Kigali Rural prefectures. RPA soldiers or other agents of the State were responsible for at least 13 of these killings, including those of two detainees killed during alleged escape attempts, and for three deaths resulting from ill-treatment, all in Kibungo prefecture. In another incident, a returnee from Zaire, accused of killing a genocide survivor and three other persons on 11 December, was summarily executed by RPA soldiers on 21 December at a public meeting organized by military officials and civilian authorities in Gikongoro prefecture.

16. HRFOR also received reports of other attacks against and cases of ill-treatment of returnees, particularly involving returnees from Tanzania in Kibungo prefecture. On 23 December, for example, approximately 300 returnees in Rusumo commune, Kibungo prefecture, were rounded up by RPA soldiers and members of the local population and forced to attend a meeting in which they were told to confess to crimes committed during the genocide. On the way to this meeting, 20 returnees were severely beaten, including one man who was

left gravely wounded on the road and who has not been seen since. HRFOR is not aware of any arrests of the soldiers or civilians allegedly responsible for the ill-treatment.

17. According to information available to HRFOR as at 15 January 1997, in the two months since the returnees began arriving in Rwanda, at least 6,800 have been arrested and at least 60 have been the victims of killings or other serious attacks. On 9 January, in the most serious incident to date, 31 newly-arrived returnees from Tanzania were killed in Rusomo commune, Kibungo prefecture, reportedly by members of the local population.

18. Following the start of the massive influx of returnees from Zaire on 15 November 1996, the Government of Rwanda announced that occupants of houses and land belonging to arriving returnees would have 15 days to vacate such premises. HRFOR has observed difficulties in implementing this directive, and many returnees have not been able to recuperate their houses or property. In some cases, newly-arrived returnees and occupants of their houses have made informal arrangements to cohabit temporarily until the occupants could find alternative accommodation. Other returnees have managed to find accommodation with relatives, neighbours or friends, or to live in temporary shelters, until their houses are vacated or new housing can be constructed. In order to assist returnees who lack accommodation, the civilian authorities have organized temporary transit centres at communal offices until accommodation becomes available or formerly-owned property becomes vacant. While additional housing is being rehabilitated or constructed with the assistance of international agencies, a number of housing and property disputes have arisen between returnees and the current occupants, who include genocide survivors and old-caseload returnees.

19. The High Commissioner welcomes the policy response of the Government of Rwanda and the steps taken by the Government to construct and provide housing. At the same time, it is crucial that property conflicts between genocide survivors and newly-arrived returnees are addressed. In this connection, the High Commissioner appeals to the international community to take steps to increase its material and financial assistance to the Government of Rwanda in the construction and rehabilitation of housing.

C. Response of the High Commissioner for Human Rights to the mass return movement

20. HRFOR had taken a number of steps prior to the mass influx of returnees, so that when the return movement suddenly occurred, HRFOR was well-prepared to assist the returnees and to monitor the human rights situation relating to the mass influx. The Field Operation in Rwanda had adopted a contingency plan to organize the monitoring of the reception of returnees at the commune level and the Operation concentrated promotional activities aimed at supporting respect for human rights during returnee reintegration.

21. Following the forced closure of several camps in the Uvira/Bukavu and Goma areas, Kivu province, Zaire, and the possibility of a massive arrival of returnees, HRFOR stepped up preparatory measures in the prefectures of Rwanda where the majority of refugees originated to monitor, in close cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR),

the reception and reintegration of returnees in their communes of origin. In this respect, an additional memorandum of understanding between HRFOR and UNHCR was concluded.

22. Moreover, HRFOR regularly raised its concerns with the Government of Rwanda in reports on the human rights situation in the country. Through intensified contacts with the authorities HRFOR increased its human rights assistance to the Government; it also augmented its field presence in the receiving communes. In particular, HRFOR assisted the local authorities in establishing communal committees and other forms of informal local institution in order to enhance local capacity to address justice and reconciliation concerns, security and the needs of returnees and other groups of the population; to the extent possible, monitored the movement of returnees from transit centres to the communes of origin, as well as the arrival of returnees at communal offices; monitored the arrest and detention of returnees through regular visits to local detention centres and collated statistics on detained returnees; monitored the reintegration of returnees through visits with individual returnees and returnee families and held discussions with local authorities and the population in general; investigated alleged incidents involving returnees (in particular incidents of alleged violations of the right to life, the right to security and integrity of the person, and the right to liberty of movement); discussed and followed up on human rights incidents with relevant local and national authorities; provided a presence to promote confidence among the returnees, the population at large and the local authorities; participated in crisis cell meetings at the communal and prefectural levels; and facilitated the flow of information to relevant government officials and organizations competent to address material and institutional needs at the communal and other levels.

23. During this period, every HRFOR field team assigned at least one human rights field officer to returnee reintegration issues, responsible for collecting all available information regarding returnees and, together with the team leader, coordinating the HRFOR response and ensuring regular meetings and information exchange with government officials and UNHCR at the prefectural level. Coordination and cooperation with UNHCR was improved through the above-mentioned additional memorandum of understanding between HRFOR and UNHCR, specifically designed to strengthen coordination and avoid the duplication of measures to be taken with regard to the mass influx of returnees. In addition, together with the Ministry of Justice and UNHCR, HRFOR organized seminars on arrest and detention procedures at the prefectural and communal levels in order to address irregularities in this area. HRFOR also prepared videos and organized human rights theatre troupes to raise awareness on human rights issues relating to returnees.

24. Once the massive return movement of refugees had started, the High Commissioner reassessed the capacity of HRFOR and on 18 November 1996, appealed to Governments to augment the Operation to 200 by the end of February 1997 and to 300 as soon as identification of qualified personnel, availability of resources and logistical considerations would permit.

D. Start of the genocide trials

25. On 27 December 1996 - two and a half years after the end of the 1994 genocide - the first court proceedings before Rwandan courts against persons accused of genocide or crimes against humanity began. As of mid-February, 18 judgements had been handed down in the specialized court chambers established at the courts of first instance for trying genocide suspects. Of the 18 judgements, 11 were death sentences, 6 were life imprisonments and 1 was an acquittal. Human rights field officers attended most court sessions and monitored the proceedings.

26. The High Commissioner has welcomed the start of the genocide trials, which represents a significant step towards bringing the perpetrators of the genocide to justice and compensating civil claimants. However, the High Commissioner remains concerned about several aspects of the proceedings, in particular the lack of respect for the right to legal representation, both for defendants and for civil claimants, as well as the adequacy of other fair-trial guarantees for defendants, particularly since defendants may face the death penalty.

II. RESTRUCTURING OF HRFOR IN RESPONSE TO THE DETERIORATION OF THE SECURITY SITUATION EARLY IN 1997

A. Attacks on expatriates including members of HRFOR

27. Since the beginning of 1997, there has been a serious increase in security incidents involving expatriates working in Rwanda. Since January, HRFOR is aware of 10 incidents in which expatriates were the victims of killings, attacks or armed robberies. Six expatriates have been killed in three incidents. These incidents involved the killing of three members of a Spanish non-governmental organization on 18 January, the killing of a Canadian priest on 2 February in Ruhengeri prefecture, and the killing of five members of HRFOR, including two international human rights field officers, on 4 February in Cyangugu prefecture. The two most serious incidents involving HRFOR personnel are described below.

28. On 13 January, four members of HRFOR, including two international human rights field officers, were attacked, threatened and beaten, allegedly by a group of insurgents whilst conducting a routine field visit in Giciye commune in eastern Gisenyi prefecture.

29. On 4 February, five members of HRFOR, including two international human rights field officers, were killed during an attack by a group of around 15 armed individuals suspected to be insurgents on the road to Karengera commune in southern Cyangugu prefecture. The five members of HRFOR were on their way to attend a meeting organized by the prefectural authorities in Karengera commune.

30. The five members of HRFOR lost their lives in the service of promoting and protecting human rights in Rwanda with the utmost dedication and competence. The High Commissioner for Human Rights pays special tribute to the sense of devotion, courage and professionalism of all the human rights staff in Rwanda. The five members of HRFOR who lost their lives made the

ultimate sacrifice in their pursuit of the promotion of fundamental freedoms and respect for human dignity in Rwanda. Their contribution will always be remembered.

31. The High Commissioner wishes to acknowledge the cooperation of the Government of Rwanda in facilitating the visit of the Chief of HRFOR to Cyangugu immediately following the incident, the transport of the bodies to Kigali and the evacuation of the remaining HRFOR staff from Cyangugu to Kigali.

32. The government authorities opened investigations into the incident. HRFOR also initiated its own investigations. On 12 February, two individuals suspected of participation in the attack were killed during an armed confrontation with the RPA. On 14 February, HRFOR was informed by the Government of Rwanda of the arrest of five other suspects. HRFOR had private and confidential access to four of the five arrested suspects, inspected the scene of the attack and interviewed eyewitnesses to the incident. HRFOR is continuing its investigations.

B. Security measures in response to the deterioration of the security situation

33. Following the deterioration of the security situation in mid-January in Gisenyi and Ruhengeri prefectures, HRFOR reduced its activities in north-western Rwanda. The offices in Gisenyi and Ruhengeri were temporarily closed and human rights field officers carried out regular field trips from Kigali to these prefectures. Subsequent to the killing of five members of HRFOR on 4 February, the United Nations Security Coordinator, in consultation with all United Nations operational agencies in Rwanda, declared the security situation in Rwanda to have reached Phase IV in the western prefectures, as well as in parts of Kibungo, Gikongoro, Gitarama, Kigali Rural and Byumba prefectures, signifying that all staff, except those essential for carrying out emergency, humanitarian and security functions of the agency in question, were recommended to relocate temporarily to Kigali. In accordance with this recommendation, all personnel of the Field Operation were withdrawn from the various field offices to Kigali. Among the security measures taken, HRFOR required its personnel to request permission to travel to destinations outside Kigali with a prior notice of 48 hours. No travel of personnel was permitted except under armed escort. In addition, security meetings with heads of United Nations agencies and between the Chief of HRFOR and HRFOR staff were held on a regular basis to discuss and review the security situation.

34. HRFOR continues its regular security meetings with staff. An HRFOR staff member has been appointed to act as a focal point on security matters in each field team. The recruitment of four or more persons specially qualified in security matters has been initiated in order to increase the security-related capacity of HRFOR.

35. The High Commissioner is hopeful that the current security situation represents a temporary change in circumstances. He therefore wishes to emphasize that HRFOR intends to resume its previous level of activities as soon as possible, taking all necessary security measures.

C. Visit of the High Commissioner to Rwanda

36. The High Commissioner visited Rwanda on 18 February 1997 in order to assess the status, activities and future strategy of HRFOR, and to decide on further measures that might be necessary to adapt the Operation to the deterioration in security conditions. During his visit to Kigali, the High Commissioner met with the Minister for Foreign Affairs, the Minister of Justice and the Minister of the Interior; the latter was accompanied by the Chief of Cabinet of the President. The High Commissioner also met with representatives of the diplomatic corps and other United Nations agencies, in addition to meeting with HRFOR staff.

37. The Government of Rwanda expressed deep regret at the tragic loss of life of the five members of HRFOR, and reaffirmed its strong interest in having HRFOR continue its work in all aspects of its mandate and in all parts of the country. The Government explained the acts of violence perpetrated against HRFOR staff and other expatriates working in Rwanda by the fact that, two months after the peaceful and orderly mass return of refugees from Zaire and Tanzania, elements of the ex-FAR and Interahamwe militia among the returning refugee population had established sufficient roots to carry out targeted terrorist activities. Genocide survivors and persons associated with them, but also expatriates, were the main victims of these attacks. Noting that United Nations security directives had resulted in a temporary evacuation of HRFOR field teams to Kigali, the Government of Rwanda expressed its view that the current security situation in Rwanda did not warrant such measures, and reaffirmed its interest in the Operation and its commitment to cooperating fully with HRFOR in all aspects of its work, including security. The Government also expressed its willingness to cooperate further in the investigation of the killing of the five HRFOR personnel.

D. Restructuring and adaptation of HRFOR

38. The High Commissioner remains convinced that the continuation of HRFOR is crucial to assist the people and the Government of Rwanda to achieve the goals of full respect for human rights and the rule of law. Numerous Governments, including the Government of Rwanda, have encouraged the High Commissioner to ensure that HRFOR resumes its full activities as soon as the security situation permits, as a fundamental contribution to Rwanda's rehabilitation and stability in the longer term. The High Commissioner considers that the HRFOR mandate remains valid, namely, to carry out investigations into violations of human rights and humanitarian law, including possible acts of genocide; to monitor the ongoing human rights situation, and through its presence help redress existing problems and prevent possible human rights violations from occurring; to cooperate with other international agencies to re-establish confidence and thus facilitate the rebuilding of civil society; and to implement programmes of technical cooperation in the field of human rights, particularly in the area of the administration of justice.

39. HRFOR, however, has had to adapt temporarily to the new circumstances described above. To this end, the Operation was restructured at the end of February 1997. In the current situation, the HRFOR field presence comprises four sub-offices, from which all field activities will be coordinated and

supported, and visits made to prefectural capitals, with the exception of Cyangugu and Gisenyi; and two satellite field offices (one each in Cyangugu and Gisenyi) in which teams of two human rights field officers will work closely with other United Nations agencies in specially secured United Nations compounds. The remaining staff will be deployed in Kigali to increase promotional activities at the national level. At the time of preparation of the present report, the plan for the immediate future included the deployment of 28 personnel to field teams, and the increase of HRFOR headquarters personnel strength to 77, bringing the total personnel strength of HRFOR to 105. At the end of February, there were 137 members of HRFOR: 40 United Nations staff with fixed-term contracts, 64 United Nations volunteers, 21 human rights field officers contributed by the European Union, 4 persons contributed by the Government of Norway, 4 contributed by the Government of Denmark and 4 additional staff on special service agreements. Some 20 HRFOR personnel had indicated their desire to leave the mission. The High Commissioner has authorized HRFOR personnel strength to be reduced to the level of some 105 human rights field officers for the immediate future. This will be achieved by the departure of those who wish to leave and by the non-renewal of contracts of personnel for whom suitable positions could not be identified in the new structure.

40. Currently, HRFOR is in the process of setting up sub-offices in Kigali Ville (covering also Kigali Rural and Byumba prefectures); Gitarama (covering also Ruhengeri and Kibuye prefectures); Butare (covering also Gikongoro prefecture); and Kibungo (also covering Mutara prefecture). In principle, each of these sub-offices comprises a team of at least six human rights field officers, namely, the head of the sub-office, a security officer, a legal officer, an officer to monitor detention centres, an officer to coordinate investigations and an officer to focus on human rights promotional activities. From these sub-offices, HRFOR intends to resume gradually its comprehensive coverage of all regions of Rwanda, taking full account of developments in the security situation. In addition, there will be two field offices, one in Cyangugu, and the other in Gisenyi, with two field officers each, who will mainly collect information from, and liaise with, other agencies in the area. While at this stage it is no longer possible to maintain the same level of contact in the communes, it remains the objective of the Field Operation to resume its previously close contacts at the communal level throughout the country, when security conditions permit. In the interim, the relatively numerous headquarters personnel, located in Kigali, will concentrate on the activities described below.

41. The High Commissioner further intends to strengthen the Operation with additional security officers and further specialized staff for technical cooperation activities with regard to the justice system. An effort is being made to identify specialized personnel for tasks in connection with trial observation, the penal administration and technical cooperation. During his most recent visit to Rwanda, the High Commissioner reached agreement with the Minister of Justice on increasing the technical cooperation projects in support of the justice system. The principal projects to be undertaken by HRFOR in the coming months would be: a training programme for judges and clerks of the specialized chambers of the courts of first instance, to facilitate the genocide trial process; a mentor programme involving the attachment of experienced foreign judges and prosecutors to help guide judges

and prosecutors of the specialized chambers in the first year of genocide trials; the setting up of free legal aid services to provide counsel for the accused and to assist civil claimants in ongoing genocide trials; and to provide advice on a fund to compensate victims and survivors of the genocide, a proposal that is currently the subject of legislation being drafted by the Government of Rwanda.

42. The headquarters of HRFOR comprises the following units: the Office of the Chief of Mission, the Security and Communications Unit, the Operations and Documentation Unit, the Legal Unit, the Education and Promotion Unit, the Translation Unit and the Administrative Unit. The Chief of HRFOR is assisted in the day-to-day running of the Operation by the Deputy Chief. The Management Group assists the Chief of HRFOR in the review of policy issues that guide the implementation of the HRFOR mandate. The Management Group is coordinated by the Chief and Deputy Chief and is comprised of the heads of units, the Coordinator for the Special Rapporteur on the situation of human rights in Rwanda, and the European Union Coordinator. With the support of the Management Group and the Press and Information Officer, the Chief of Mission is increasing awareness of the role of HRFOR among the Rwandan public administration and the public at large. The Chief of Mission, together with the Deputy Chief and the Methodology and Training Officer, also develops methodologies and in-service training programmes to improve methods for investigation, reporting and analysis and to enhance the management of personnel within field teams.

43. The Operations and Documentation Unit undertakes reporting and analysis on the current human rights situation based on information and reports provided principally by the HRFOR field teams. The Operations and Documentation Unit is also in charge of the day-to-day management of field teams. The Special Investigations Sub-Unit supports field teams in their investigation of particularly grave incidents and provides training on investigative techniques for human rights field officers.

44. The strengthening of the Operations and Documentation Unit underlines the continued importance of the role of HRFOR in monitoring the human rights situation in Rwanda. Its assessments form the basis upon which it may recommend to the Government measures that could be adopted to improve the protection of fundamental human rights and the rule of law. Moreover, these assessments allow HRFOR to tailor its technical cooperation programme to meet requirements of the situation as it develops.

45. The Legal Unit concentrates on improvements in the administration of justice and in the status and conditions of genocide survivors, undertakes genocide trial monitoring, and promotes improvements in the penal administration. The Legal Unit seeks to enhance conformity of the Rwandan legal system with international human rights standards through the promotion of legal reform. The Legal Unit also carries out training of the gendarmerie and the communal police, works to augment and strengthen the capacity of human rights institutions through projects of technical cooperation in the field of human rights and provides support to the Prosecutor's Office to enhance the effectiveness of human rights norms in the context of the Rwandan judicial system. As regards institution-building, the Legal Unit focuses on the

setting up of a national human rights commission, a parliamentary human rights commission and human rights departments in all government ministries.

46. The Education and Promotion Unit focuses on improving the position of vulnerable groups, such as women and children, and capacity-building within human rights non-governmental organizations. One of the goals of this unit is to inculcate and foster a human rights culture in the school system and the Rwandan public administration, through the development of human rights material in Kinyarwanda, English and French. The unit also supports HRFOR educational and promotional activities, as well as other HRFOR programmes, in cooperation with the Translation Unit.

47. The Security and Communications Unit, vital to the safe and secure functioning of HRFOR, carries out the following activities: liaison with the security officers of other United Nations agencies; liaison with security officials of the Government of Rwanda; development of systems and procedures for HRFOR security; ongoing evaluation of security threats and risks to HRFOR; training of staff to increase security awareness; and ensuring the security of personnel, premises and documentation of HRFOR.

III. ACTIVITIES OF HRFOR

A. Overview

48. In accordance with its mandate, the Human Rights Field Operation in Rwanda carries out investigations into alleged violations of human rights and humanitarian law, including possible acts of genocide; monitors the ongoing human rights situation; cooperates with other international agencies to re-establish confidence and thus facilitates the rebuilding of civil society; and implements programmes of technical cooperation in the field of human rights, particularly in the area of the administration of justice. Over the past few months, HRFOR has focused its monitoring activities on the human rights situation in the context of the mass influx of returnees to Rwanda and on the commencement of genocide trials. In addition to monitoring the human rights situation in Rwanda, HRFOR has been carrying out the following activities.

B. Administration of justice and institution-building

49. Following the mass influx of returnees to Rwanda in November and December 1996, HRFOR organized conferences on human rights in the administration of justice, as well as seminars on arrest and detention procedures. The seminars on arrest and detention procedures took place throughout the country and were aimed mainly at commune-level authorities.

50. Human rights field officers participated in the training of 150 new judicial police inspectors and 750 new communal police constables. A seminar on methods of investigation, criminal law, and arrest and detention procedures was organized by HRFOR in Kigali in November 1996 for officers of the Criminal Investigations Department of the National Gendarmerie. In

collaboration with the Ministry of Defence, HRFOR organized a seminar for the RPA high command on the role of the RPA in the protection and promotion of human rights, from 3 to 7 February 1997 in Kigali. HRFOR also organized several seminars on the same theme for junior officers and soldiers in prefectural capitals.

51. Since the commencement in late December 1996, of the trials before Rwandan national courts of persons accused of genocide and crimes against humanity committed in Rwanda since 1 October 1990, HRFOR legal officers have monitored these trials throughout the country. HRFOR has also monitored the trials before Rwandan military courts. In the area of penitentiary administration, human rights field officers carry out regular visits to detention centres throughout Rwanda with a view to recommending improvements in conditions of detention, encourage the prison authorities to address the problem of overcrowding in detention centres, foster accountability in the penitentiary administration and inform and educate detainees on the new genocide prosecution law. HRFOR has completed the first phase of its detainee database project aimed at the registration of and the collection of relevant information about detainees held in communal detention centres and gendarmerie brigades throughout the country. HRFOR also monitored frequent transfers of detainees from communal detention centres to central prisons in a joint operation of the Prosecution and Prisons Departments of the Ministry of Justice, the International Organization for Migration (IOM), the International Committee of the Red Cross (ICRC), and HRFOR. In December 1996, HRFOR organized a seminar for penitentiary personnel in Ruhengeri. Topics addressed included: the mandate, ethics, and responsibilities of the new communal police; the role in matters of detention of the gendarmerie and the military; and the legal rights of detainees.

C. Genocide response and vulnerable groups

52. HRFOR continued to pay particular attention to the plight of the survivors of the 1994 genocide and of certain vulnerable groups. HRFOR concentrates its activities on three main areas: assistance to Rwandan local communities wishing to document and publish the history of the genocide in their communes; the situation of genocide survivors; and the situation of the minority Batwa community. HRFOR developed a project to collect baseline data on the situation of genocide survivors regarding their security, survivors' organizations and their activities, survivors' recourse to judicial procedures to secure their rights and obtain redress, and the housing of genocide survivors. HRFOR continued providing technical assistance to the local genocide history pilot project in a commune in Gitarama prefecture, in particular with regard to the transcription and the verification of individual testimonies collected in the commune. In January 1997, HRFOR assisted the Association for the Promotion of the Batwa (APB) with the organization of a round table to determine strategies and policies for the improvement of the situation of the Batwa.

D. Human rights education and promotion

53. HRFOR pursued its ongoing programme of human rights education and promotion through projects carried out jointly by HRFOR headquarters staff, field officers, Rwandan partners, including local and national authorities,

and human rights non-governmental organizations. The main objective of initiatives in this area was to create widespread human rights awareness among the population in general and certain target groups in particular, including civil servants, the military, women, youth representatives, teachers and students. HRFOR organized seminars, conferences and workshops, continued to sponsor two human rights theatre troupes, and produced video cassettes, playing cards, banners and radio plays.

IV. COSTS AND FINANCING OF THE OPERATION

54. The High Commissioner wishes to express his gratitude to those Governments that have contributed to the voluntary funding of the Operation, and to the European Commission, which has provided and entirely supported logistically a team of human rights field officers integrated fully into the Operation. The High Commissioner is also grateful to those Governments and organizations which have supported the Operation with qualified personnel.

55. The High Commissioner nevertheless would like to reiterate his desire to see human rights field operations, particularly those deployed on the magnitude of HRFOR, have access to regular budget funds. It remains of concern that voluntary contributions have never been sufficient to sustain the Operation, notwithstanding strict measures to contain costs, including the use of United Nations Volunteers (UNVs) as the majority of field officers. Contributions have been unforeseeable, and have therefore not provided a basis on which sound planning could take place. It has only been possible to give staff contracts of an abnormally short duration, even for a field mission; this has posed difficulties in both recruitment and retention of staff, and the very high turnover experienced has been disruptive of sustained relationships of cooperation with the authorities and other organizations, as well as of the professional standards of the Operation.

56. For the year 1997, the Trust Fund for the Human Rights Field Operation in Rwanda has received US$ 6,033,200 over and above the positive balance of US$ 2,529,300 received in 1996, which together total US$ 8,562,500. This amount would enable HRFOR to continue until the end of September 1997 at a level of 105 personnel, composed of 35 fixed-term staff and 70 UNVs.

V. CONCLUSIONS

57. The High Commissioner wishes to conclude by observing that, in the implementation of its integrated and multifaceted mandate the Operation has played a crucial role in enhancing respect for human rights and dignity and the rule of law in Rwanda with a view to restoring peace and stability and achieving reconciliation in the country.

58. With the long-awaited, but sudden, mass influx of returnees to Rwanda, a major obstacle to the goals of the Government of Rwanda and the international community has been overcome. The mass return movement has brought about a situation in which the Field Operation has a major role to play, namely, that of creating a climate of confidence within Rwanda with a view to eventual

national reconciliation and a full accounting for the genocide and associated violations of human rights and humanitarian law. HRFOR, with the substantial experience it has accumulated, has considerable potential to further these aims in the months ahead, with the cooperation and support of the Government of Rwanda and the international community.

59. The concept of a human rights field presence to implement human rights protection and promotion in situ has evolved on the basis of the practical experience gained by HRFOR, and is increasingly being applied in countries in other parts of the world where such assistance may be welcomed by the Government. Despite initial difficulties in setting up the Human Rights Field Operation in Rwanda, the High Commissioner remains deeply convinced that the Operation's role in Rwanda is evermore necessary. With the continuing cooperation of the Government of Rwanda, which was clearly communicated to the High Commissioner during his last visit to Rwanda, and the steady support of the international community, the High Commissioner hopes that the Field Operation will be able to re-establish its contacts in all communes. The High Commissioner is convinced that the mandate of HRFOR remains vital to the future and people of Rwanda and remains confident that HRFOR, working in close cooperation with the Government of Rwanda and with the support of the international community, will continue to contribute to peace and stability in the Great Lakes region.